

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:	: Chapter 11
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Old Carco LLC, <i>et al.</i> ,	: Case No. 09-50002 (SMB)
	:
Debtors.	: Jointly Administered
	:
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	:
Wendy Hightman, on behalf of herself and all others	: Adv. Pro. No. 19-01333 (SMB)
similarly situated,	:
	:
Plaintiff,	:
	:
-v-	:
	:
FCA US LLC,	:
	:
Defendant.	:
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**ORDER GRANTING IN PART AND DENYING IN PART MOTION OF
FCA US LLC TO ENFORCE THE COURT’S SALE ORDER AND
TO DISMISS THE FIRST AMENDED CLASS ACTION COMPLAINT**

Upon the *Motion of FCA US LLC to Enforce the Court’s Sale Order and to Dismiss the First Amended Class Action Complaint* (the “Motion”);¹ this Court having jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and venue of this adversary proceeding and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that proper and adequate notice of the Motion and the relief requested therein has been provided; and a hearing on the Motion having been held before the Court on February 27,

¹ Capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

2020 (the “Hearing”); and the Court having considered the Motion and the objection to the Motion, as well as all related briefing and filings of the parties and the arguments of counsel made at the Hearing; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED in part and DENIED in part as set forth on the record at the Hearing.

2. The First Cause of Action (Violation of Magnuson-Moss Warranty Act), Third Cause of Action (Breach of Duty of Good Faith and Fair Dealing), and Sixth Cause of Action (Violation of California Unfair Competition Law) of the Complaint are dismissed for the reasons stated on the record at the Hearing.

3. The Fourth Cause of Action (Violation of California False Advertising Law) and Fifth Cause of Action (Violation of California Consumer Legal Remedies Act) of the Complaint have been withdrawn by Plaintiff Hightman.

4. The Second Cause of Action (Breach of Contract/Common Law Warranty) is not dismissed to the extent it is based on a breach of the warranty for the reasons stated on the record at the Hearing, *provided, however*, that in all circumstances FCA US LLC’s liability for damages is limited to the costs of repair and labor for fixing the vehicle, and any other claims for compensatory, incidental, punitive or other damages are barred by the Sale Order.

5. This action shall be transferred back to the transferor court in the United States District Court for the Southern District of California.

6. The requirements set forth in Local Rule 9013-1(b) are satisfied.

7. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and interpretation of this Order.

Dated: March 10th, 2020
New York, New York

/s/ STUART M. BERNSTEIN

Honorable Stuart M. Bernstein
United States Bankruptcy Judge